



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 17 2004

Mr. Jim Powell, President
Transportation Development Group
415 Dairy Road
PMB E234
Kahului, HI 96732

Ref. No.: 04-0212

Dear Mr. Powell:

This responds to your letter dated September 10, 2004, concerning the transportation of combustible liquids under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask about the transportation of "Perfumery products, UN 1266" that are classed as combustible liquids under § 173.150(f)(1) of the HMR and the circumstances under which such combustible liquids may be transported by vessel or aircraft.

Under § 173.150(f) of the HMR, a flammable liquid with a flashpoint at or above 38°C (100°F) that does not meet the definition of any other hazard class may be reclassified as a combustible liquid. This provision does not apply to transportation by vessel or aircraft, except where other means of transportation is impracticable. A material classed as a combustible liquid (e.g., "Perfumery products, UN 1266") in a non-bulk packaging (e.g., a box of 120 ml bottles) that is not a hazardous substance, hazardous waste, or marine pollutant is not subject to the HMR. For transportation by aircraft or vessel, a flammable liquid with a flashpoint above 60.5°C (141°F) is not regulated, provided it meets no other hazard class. (see §§ 173.120(a)(2), (b)(2), and 173.150(f)(1)).

For purposes of § 173.150(f), the term "impracticable" means that transportation is not physically possible or cannot be performed by routine or frequent means of transportation because of extenuating circumstances. For inter-island transportation or for transportation between the continental United States and Hawaii, transportation by a mode other than vessel or aircraft is not physically possible; thus, under the HMR, you may use the exception in § 173.150(f) to transport a combustible liquid by vessel or aircraft between islands or between Hawaii and the continental United States. No prior arrangement or authorization from DOT is required for such transportation.

As you indicate in your letter, neither the International Civil Aviation Organization's Technical Instructions for the Transport of Dangerous Goods (ICAO Technical Instructions) nor the International Maritime Dangerous Goods (IMDG) Code includes an exception from regulation for flammable liquids reclassified as combustible liquids. Thus, for airlines that require shippers to



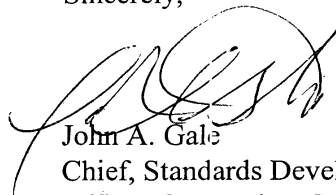
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173.150(f)

comply with the ICAO Technical Instructions and for vessel carriers that require shippers to comply with the IMDG Code, "Perfumery products, UN 1266" must be classed as a flammable liquid.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Gale", with a large, stylized flourish extending from the end of the signature.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



Transportation Development group

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Engrum
§173.150(f)
Exceptions
04-0212

Friday, September 10, 2004

Mr. Edward T. Mazzullo
RSPA Office of Hazardous Materials Standards
400 7th Street S.W. DHM10
Washington, DC 20590-0001

Dear Mr. Mazzullo:

I am requesting an interpretation of 49 CFR 173.150(f)(1) where it provides that the combustible liquid exception is not valid for transport by air or vessel *except where other means of transport are impracticable*.

So, here are some possible scenarios here in Hawaii for a box of 120 mL bottles of Perfumery Products, UN 1266, that is not a hazardous substance, waste or marine pollutant.

1. May be shipped inter-island by barge under this exception – not subject to any requirements of 49 CFR.
2. May be shipped inter-island by AIR under this exception – not subject to any requirements of 49 CFR.
3. May be shipped from Hawaii to the continental US by vessel or air under this exception – not subject to any requirements of 49 CFR.

I do realize there are other considerations – such as the airlines following **IATA** (*industry*) rules that do not allow this exception. Presuming, for the sake of discussion, that there is an inter-island air carrier who followed 49 CFR and not IATA/ICAO it seems to me that this exception would be allowed.

Am I correct in presuming that no prior arrangements or authorization from the DOT would need to be made or obtained to ship virtually unlimited quantities of flammable liquids by air or ocean inter-island as long as the substance was referred in column 8(A) of the HMT to 173.150 and all the other requirements were otherwise met.

Is this interpretation of the regulations correct?

Sincerely,

Jim Powell
President
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